

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The purpose of these amendments is to increase the statewide average cost of nursing facility services to a private-pay person. These amendments are not related to rates paid by Medicaid for nursing facility care.

The cost figure is used to determine a period of ineligibility when an applicant or recipient transfers assets for less than fair market value. When assets are transferred to attain or maintain Medicaid eligibility, the individual is ineligible for Medicaid payment of long-term care services. The period of ineligibility is determined by dividing the amount transferred by the statewide average cost of nursing facility services to a private-pay person.

The Department conducted a survey of freestanding nursing facilities, hospital-based skilled facilities, and special populations facilities in Iowa to update the statewide average cost for nursing facilities. The average private-pay cost of nursing facility services per month is increased from \$5,057.65 to \$5,103.24.

In addition, these amendments update the average charges for nursing facilities, psychiatric medical institutions for children (PMICs) and mental health institutes (MHIs). These average charges are used to determine the disposition of the income of a medical assistance income trust (MAIT).

Nursing facility amounts are not related to the rates paid by Medicaid for nursing facility care. For this purpose, the Department’s survey for statewide average private-pay charges at nursing facility level of care included only the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special populations units were not included in the survey since recipients are allowed to use the average cost of the specialized care.

The average charge to a private-pay resident of nursing facility care increased from \$4,642 per month to \$4,666.

The average charges for PMICs and MHIs are based on Medicaid rates because Medicaid is the primary payer of these services.

- The average charge for care in a PMIC increased from \$6,111 per month to \$6,297 per month.
- The average charge for care in an MHI increased from \$19,590 per month to \$20,498 per month.

The increases in these amounts will allow a few additional individuals to qualify for medical assistance with MAITs.

The maximum Medicaid rate for intermediate care facilities for individuals with intellectual disabilities (ICF/ID) is not addressed in this rule making because the maximum rate is decreased. This change is addressed in a separate rule making (see **ARC 1483C** herein).

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 1415C** on April 2, 2014. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 14, 2014.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective on July 1, 2014. The normal effective date can be waived since these amendments confer a benefit on the public. The average costs and charges are increased, thus allowing additional individuals to qualify for medical assistance by decreasing the period of ineligibility due to transfer of assets and by allowing individuals to be eligible with a medical assistance income trust.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective July 1, 2014.

The following amendments are adopted.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2013~~ 2014, through June 30, ~~2014~~ 2015, this average statewide cost shall be ~~\$5,057.65~~ \$5,103.24 per month or ~~\$166.37~~ \$167.87 per day.

ITEM 2. Amend paragraph **75.24(3)“b”** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2013~~ 2014, to June 30, ~~2014~~ 2015, shall be as follows:

- (1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$4,642~~ \$4,666 per month.
- (2) No change.
- (3) The average statewide charge to a resident of a mental health institute is ~~\$19,590~~ \$20,498 per month.
- (4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~\$6,111~~ \$6,297 per month.
- (5) No change.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/11/14.